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VIA E-MAIL

Clerk of the Supreme Court
denise.foster@courts.wa.gov

Re: Proposed Rule 34

Dear Clerk of the Supreme Court:

We support the adoption of Proposed Rule 34 and commend the Committee's efforts to promulgate a rule which acknowledges the discoverability of electronically stored information (ESI) and provides much needed guidance surrounding the potentially contentious issue of the proper format of production.

The adoption of Proposed Rule 34 will make discovery less complicated, reducing unnecessary burden (and its attendant expense) by providing clear guidance to parties and counsel regarding the appropriate procedure for addressing format issues, including how to handle disagreement. Notably, because the rule makes clear that the requesting party may not unilaterally impose its production preference, parties are frequently motivated to work cooperatively to reach agreement regarding the format of production, often before a request is even served. As a result, the need for contentious motions practice or judicial intervention is significantly decreased and, as a further consequence, the cost of litigation is also reduced.

Very truly yours,

K&L GATES LLP



By

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